

UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Kirk Charles Frederickson
Serial No.: 10/676,775
Filed: October 1, 2003
Group Art Unit: 3682
Examiner: Van Pelt, Bradley J.
Title: HARMONIC FORCE GENERATOR FOR AN ACTIVE
VIBRATION CONTROL SYSTEM

Commissioner for Patents
Mail Stop Appeal Brief-Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Dear Sir:

Appellant appreciates the Examiner's withdrawal of the 35 U.S.C. §112, first and second paragraph rejections. The Examiner's Answer mailed April 4, 2007 raises a new argument which is addressed below.

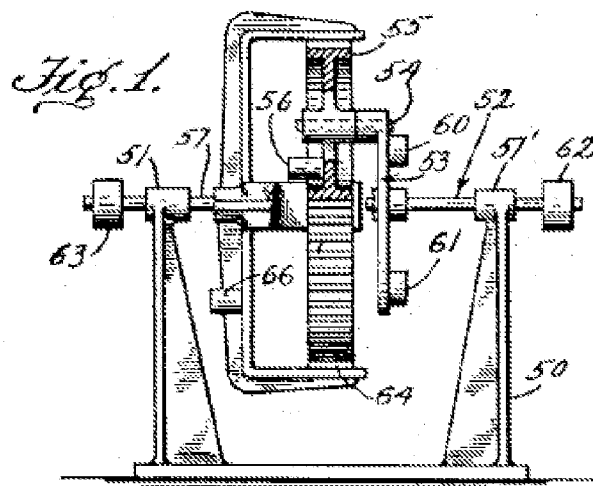
Arguments with Regard to Whether the First Circular Member 64 is "Rotationally Fixed."

The Examiner, in the July 14, 2006 Office Action at ¶¶4 and 9 (reproduced below), argues that Applicant's phrase "rotationally fixed" is confusing yet *Kanski* shows every element recited in claim 1 when the Examiner has taken the liberty to construe the meaning of the phrase ["rotationally fixed"] to mean *rotatable* and fixed to the axis.

4. Claims 1, 2, 4, 5, 7, 23, and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 recites the newly included phrase "rotationally fixed" in line 2. In the Remarks filed May 15, 2006, with the newly amended claim language, the applicant appears to argue that the first circular member is non-rotatable about the axis A whereas the first circular member 64 of *Kanski* is rotatable. Although the phrase "rotationally fixed" is confusing and indefinite, if the meaning of the phrase indicates that the first circular member is not rotating about the axis A, then such phrase raises new matter issue, since such description is not supported by the specification or the drawings as originally filed.

9. Applicant's arguments filed May 15, 2006 have been fully considered but they are not persuasive. The applicant argues that *Kanski* fails to show the first circular member being a rotationally fixed. It is the Examiner's view that *Kanski* shows every element recited in claim 1. As discussed above in the new matter and indefinite rejections, the phrase "rotationally fixed" is confusing. Therefore, the Examiner, as noted above, has taken the liberty to construe the meaning of the phrase to mean rotatable and fixed to the axis.

That is, the Examiner was originally properly interpreting the first circular member 64 of *Kanski* as being rotatable. Now, having dropped the 35 U.S.C. §112 rejections, the Examiner is forced to argue that the first circular member 64 of *Kanski* is "rotationally fixed." This sort of flexible interpretation is simply unsupportable. *Kanski* discloses at least two rotatable members 57 and 52. Member 57 carries a concentric gear 58 (in Figures 1A and 1B) or an internal gear (orbit) 64 (in Figure 1).



Notably, members 62 and 63 may be driven by a motor with different velocities and directions of rotation such that rotatable member 57 and thus internal gear 64 rotates contrary to the Examiner's interpretation. [See *Kanski*, p. 4, col 2, lines 24-39, reproduced below].

In Figures 1^a, 1, 1^b, 15^b, 15^a, 15 are shown diagrammatically various aspects of the invention: the frame 50 carries by means of bearings 51 and 51' two rotatable members 57 and 52. Member 57 carries a concentric gear 58 (in Figures 1^a and 1^b) or an internal gear (orbit) 64 (in Figure 1). Member 52 is provided with a shaft 54 located eccentrically in respect to the axis of member 52. On the said eccentric shaft is mounted a planetary gear 55 engaged with the gear 58 or 64. Members 62 and 63 may be driven by a motor with different velocities and directions of rotation. Each and every one of the members 52, 53, 55, and 57 may be unbalanced. The unbalancing weights are represented by numbers 56, 60, 61, 66, 67, and 56''. The weight 60 attached to the

Furthermore, contrary to the Examiner's assertion, none of the schematics illustrate a two-cusp hypocycloid.

For at least the reasons set forth above, the rejection of all claims is improper and should be reversed. Appellant earnestly requests such action.

Respectfully Submitted,

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Dated: April 12, 2007

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